



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/690.911	10/17/00	GEORGES	A DBT-003

LOUDERMILK & ASSOCIATES  
10950 N. BLANEY AVENUE SUITE B  
CUPERTINO CA 95014

MMC1/0717

EXAMINER
WITKOWSKI, S

ART UNIT	PAPER NUMBER
2837	

DATE MAILED:

07/17/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/690,911

Applicant(s)

Georges

Examiner

Witkowski

Group Art Unit

2837

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-5 is/are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-5 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

Art Unit: 2837

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
2. Box 5 in the drawing should be provided with an appropriate legend. The drawing should be provided with the legend -- Fig. 1 --.
3. Page 2, line 26, and page 4, line 7, the appropriate serial numbers should be provided.
4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-5 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In particular, applicant's disclosure of Fig. 1 is deemed to be insufficient for patent purposes. While the art may be replete with apparatus that might perform the functions of the boxes in Fig. 1, this does not produce an adequate disclosure which merely indicated generally the functions desired and leaves it to the prosecutive user to select and combine features from the prior art to produce such functions. An applicant must do something more in meeting the requirements of the statute than give cues for future experiments by persons skilled in the art who desire to carry out the invention. It is deemed by the examiner that one skilled in the art attempting to make and use the invention would be forced through undue experimentation to interconnect the boxes in such a

Art Unit: 2837

manner as to provide the detailed relationships and programming necessary to carry out the invention. Essential material may not be incorporated from a copending application.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are narrative in form and replete with indefinite and functional language. The elements set forth must be positively recited and structurally correlated.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

9. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being fully met by Kim et alii or Tsurumi "215.

Each patent discloses the downloading of musical files employing radio data.

Art Unit: 2837

10. Claims 1-5 are rejected under 35 U.S.C. 102(e) as being fully met by Nathan et al.

Nathan discloses the downloading of musical files employing radio data.

11. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being fully met by Tsurumi "081.

Tsurumi discloses the downloading of musical files employing radio data.

12. Any inquiry concerning this communication should be directed to Stanley J. Witkowski at telephone number (703) 308-3101.

Witkowski/nt

7/16/01

A handwritten signature in black ink, appearing to be 'Stanley Witkowski', written in a cursive, flowing style.

**Stanley Witkowski**  
**Primary Examiner**